IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2846 of 2005

Between:

1 Kola Appalanarasayya, S/o.Late Appanna
R/o.Sangivalesa village, Bheemunipatnam Mandal,
Visakhapatnam District.
2 Kole Gurumurthy, S/o.Late Appanna,
R/o.Sangivalesa village, Bheemunipatnam Mandal,
Visakhapatnam District.
3 Kola Appalakonda, S/o.Late Appanna
R/o.Sangivalesa village, Bheemunipatnam Mandal,
Visakhapatnam District.
4 Meda Appala Swamy, S/o.Gurumurthy,
R/o.Sangivalesa village, Bheemunipatnam Mandal,
Visakhapatnam District.

..... PETITIONERS

AND

1 The Principal District Judge-Cum-Appellate Authority under the

A.P.Tenancy (Andhra Area) Act., Visakhapatnam.
2 The Special officer under Tenancy Act-Cum-Junior civil Judge,

Bheemunipatnam, Visakhapatnam District.
3 Sri Uma Ramalingeswara Swamy Devalayam rep.by its Chairman, Sri

P.Appalanarasimha Raju, S/o.Ramachandra
Raju, R/o.Sangivalasa, Bheemunipatnam,
Visakhapatnam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction, more particularly one in the nature of writ of certiorari, by calling for the records of the 1st respondents

inA.T.A7 of 2002 dated 25-11-2004 which conformed the orders of second respondent of A.T.C. 2/1995 dated 13-8-2002 respectively and consequently to set aside the same as illegal and pass such other order or orders as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioners:MR.J.C.FRANCIS

Counsel for Respondent Nos.1 & 2: MR.C.V.NAGARJUNA REDDY

Counsel for Respondent No.3: Standing Counsel for Devasthanam

The Court at the stage of admission made the following ORDER:

The petitioners claim to be the cultivating tenants of land in an extent of Ac.11.00 in survey Nos. 1 and 11 of Sangivalasa village, Bheemunipatnam mandal, Visakhapatnam district belonging to Sri Uma Ramalingeswara Swamy Devasthanam. The Devasthanam filed A.T.C.No.2 of 1995 in the Court of the Junior Civil Judge, Bheemunipatnam-cum-The Special Officer under A.P. (Andhra Area) Tenancy Act, 1956 alleging several grounds. The trial Court directed eviction of the petitioners through its Judgment dated 13.08.2002. Aggrieved thereby, the petitioners filed A.T.A. No.7 of 2002 in the Court of the Principal District Judge-cum-Appellate authority, Visakhapatnam. The appeal was dismissed through order dated 25.11.2004. The same is challenged in this writ petition.

Heard the learned counsel for the petitioners, learned Government Pleader for Endowments, Sri C.V. Nagarjuna Reddy, learned counsel for respondents 1 and 2 and the learned standing counsel for Devasthanam.

It is not in dispute that the subject matter of the A.T.C. and A.T.A. is the agricultural lands owned by the Devasthanam, and held on lease by the petitioners. Uncertainty prevailed about the operation of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short ‘the Act’) as regards termination of leases in respect of agricultural lands. With the Judgment of the Supreme Court in *State of A.P. v. Nallamilli Rami Reddy*, the section became operative and the Legislature had also effected certain amendments in the Section. By virtue of the same, all the tenancies in

respect of the agricultural lands stand terminated. Consequently, the proceedings initiated under the Andhra Tenancy Act stand abated.

The only exception carved out under Section 82 of the Act is where the existing tenant is a land less poor person, as defined under the explanation. An opportunity is given to him to purchase the land at three-fourth of the market value, if the temple is intending to sell the same. For determination of the status of a tenant as a landless poor, as defined under the explanation to Section 82, an application needs to be made to the Assistant Commissioner of Endowments. In that view of the matter, no relief, as such, can be granted to the petitioners. They have to work out their remedies under the provisions of Section 82 of the Act and the Rules made there under.

Hence, the writ petition is disposed of with the following directions:

a. It shall be open to the petitioners to submit the application before the Assistant Commissioner of Endowments for declaration as to their status as landless poor within four weeks from today;

b. If the petitioners are still in possession of the land, they shall be entitled to remain in the same on payment of the lease amount at the market rate, until the Assistant Commissioner of Endowments disposes of the application;

c. It shall be open to the Devasthanam to conduct auction of leasehold rights. Incase, the petitioners are willing to pay such amount, they shall be continued and if they are not willing to do so, the lease can be granted in favour of the highest bidder;

d. There shall be no order as to costs.

18.02.2005

ksld

To

1 The Principal District Judge-Cum-Appellate Authority under the

A.P.Tenancy (Andhra Area) Act., Visakhapatnam.
2 The Special officer under Tenancy Act-Cum-Junior civil Judge,

Bheemunipatnam, Visakhapatnam District.

3 Sri Uma Ramalingeswara Swamy Devalayam rep.by its Chairman, Sri

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4 Two CD copies.